

Federal Energy Regulatory Commission

§ 385.402

initial decision), Rule 707 (oral argument before initial decision), and Rule 709 (other types of decisions).

[Order 225, 47 FR 19022, May 3, 1982; Order 225-A, 47 FR 35956, Aug. 18, 1982, as amended by Order 714, 73 FR 57538, Oct. 3, 2008]

§ 385.218 Simplified procedure for complaints involving small controversies (Rule 218).

(a) *Eligibility.* The procedures under this section are available to complainants if the amount in controversy is less than \$100,000 and the impact on other entities is *de minimis*.

(b) *Contents.* A complaint filed under this section must contain:

- (1) The name of the complainant;
- (2) The name of the respondent;
- (3) A description of the relationship to the respondent;
- (4) The amount in controversy;
- (5) A statement why the complaint will have a *de minimis* impact on other entities;
- (6) The facts and circumstances surrounding the complaint, including the legal or regulatory obligation breached by the respondent; and
- (7) The requested relief.

(c) *Service.* The complainant is required to simultaneously serve the complaint on the respondent and any other entity referenced in the complaint.

(d) *Notice.* Public notice of the complaint will be issued by the Commission.

(e) *Answers, interventions and comments.* (1) An answer to a complaint is required to conform to the requirements of § 385.213(c)(1), (2), and (3).

(2) Answers, interventions and comments must be filed within 10 days after the complaint is filed. In cases where the complainant requests privileged treatment for information in its complaint, answers, interventions, and comments must be filed within 20 days after the complaint is filed. In the event there is an objection to the protective agreement, the Commission will establish when answers, interventions, and comments are due.

(f) *Privileged treatment.* If a complainant seeks privileged treatment for any documents submitted with the complaint, a complainant must use the procedures described in section

385.206(e). If a respondent seeks privileged treatment for any documents submitted with the answer, a respondent must use the procedures described in section 385.213(c)(5).

[Order 602, 64 FR 17099, Apr. 8, 1999]

Subpart C [Reserved]

Subpart D—Discovery Procedures for Matters Set for Hearing Under Subpart E

SOURCE: Order 466, 52 FR 6966, Mar. 6, 1987, unless otherwise noted.

§ 385.401 Applicability (Rule 401).

(a) *General rule.* Except as provided in paragraph (b) of this section, this subpart applies to discovery in proceedings set for hearing under subpart E of this part, and to such other proceedings as the Commission may order.

(b) *Exceptions.* Unless otherwise ordered by the Commission, this subpart does not apply to:

(1) Requests for information under the Freedom of Information Act, 5 U.S.C. 552, governed by Part 388 of this chapter; or,

(2) Requests by the Commission or its staff who are not participants in a proceeding set for hearing under subpart E of this part to obtain information, reports, or data from persons subject to the Commission's regulatory jurisdiction; or

(3) Investigations conducted pursuant to Part 1b of this chapter.

§ 385.402 Scope of discovery (Rule 402).

(a) *General.* Unless otherwise provided under paragraphs (b) and (c) of this section or ordered by the presiding officer under Rule 410(c), participants may obtain discovery of any matter, not privileged, that is relevant to the subject matter of the pending proceeding, including the existence, description, nature, custody, condition, and location of any books, documents, or other tangible things, and the identity and location of persons having any knowledge of any discoverable matter. It is not ground for objection that the information sought will be inadmissible in the Commission proceeding if